

Testimony of
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Before the Subcommittee on Federalism and the Census
U.S. House of Representatives
Tuesday, September 13, 2005

Mr. Chairman and members of the Subcommittee, thank you for inviting AIG Environmental[®] to testify on State Incentive Programs for Brownfields. I am Kevin Matthews and I serve as Director of Governmental Relations for AIG Environmental[®].

AIG Environmental[®] is a division within the member companies of American International Group, Inc. ("AIG"). AIG's general insurance operations include the largest underwriters of commercial and industrial insurance in the United States, and the most extensive international property-casualty network. AIG is a company with over \$800 billion in assets and a wide variety of insurance and financial products to serve our clients. AIG Environmental[®] pioneered the use of environmental insurance and has 25 years of experience underwriting environmental risks and is currently the nation's leading provider of environmental insurance. Our portfolio of environmental insurance products ranges from liability coverage for underground storage tanks, to liability coverage for environmental remediation contractors to coverage that insures the cleanup of hazardous waste sites across the country – including Brownfields and Superfund sites.

We view ourselves as a solutions company, as we work to provide innovative approaches to help handle environmental liability and cleanup issues. Throughout our history, we have developed new insurance products to respond to new and emerging risks for the public and private sectors. AIG Environmental[®] began by offering insurance for Superfund Remedial Action Contractors (RAC), RCRA Treatment Storage and Disposal facilities (TSDF), and Underground Storage Tanks operators. We continued moving forward by offering insurance for both public and private sector cleanups.

Environmental insurance is not the silver bullet for Brownfields redevelopment. However, it is one of the "tools in the tool chest" that helps to lead to a successful cleanup and redevelopment because it often helps to address some of the greatest concerns of Brownfields redevelopment – environmental liability and uncertainties concerning the cleanup. We are here today to focus on State programs that utilize environmental insurance to advance the cleanup and reuse of Brownfields. The three states we work most closely with in these programs are Massachusetts, Wisconsin and California.

One of the most successful programs from our standpoint is the Massachusetts Brownfield Redevelopment Access to Capital (Mass BRAC) program. Created in 1998 by the Massachusetts Legislature and implemented by Mass Business Development Corporation, this program is helping to move 259 Brownfields in Massachusetts from contaminated unused or underutilized sites into cleaned up and redeveloped sites. In a moment I will provide the numbers on how this achievement was reached, but I would like to take a minute to tell how Massachusetts created this program.

As originally intended by the Commonwealth of Massachusetts, the Mass BRAC program was for the Commonwealth to create a pool of funds for use by the Commonwealth to guarantee loans made to developers who agreed to cleanup and re-use Brownfields. What was quickly learned by Mass Business is that capital for Brownfields is available. However, what stymied Brownfields redevelopment was the fear of environmental liability from historic contamination and the concern that cleanup costs could exceed the clean-up cost estimate.

The staff of Mass Business took it upon themselves to determine if tools were available in the private sector that could address such concerns and spur redevelopment. The Mass Business staff research lead to a program that would use that pool of funds, not for loans, but to subsidize the purchase of environmental insurance to help address these two overriding concerns.

Specifically, Mass Business entered into a contract with AIG Environmental[®] where, subject to underwriting, member companies of AIG would provide to site owners or developers, Pollution Legal Liability and Cleanup Cost Cap Insurance at pre-negotiated rates and coverage. Mass Business would subsidize the premium cost of the insurance to qualified developers. Such subsidies ranged from 25% to 50% of the insurance premium cost. This program lead to rapid growth in the Massachusetts Brownfield program.

Here are the results as provided to me by Mass Business:

Number of Sites in Mass BRAC Program:	259
Dollar Value of Cleanups:	\$145M
Investment and Loans by Developers:	\$2.1B
Job Impact:	25,000
Program Funds spent on EI:	\$4.8M

The ratio, based upon the stated number – for every \$1 dollar of Commonwealth Funds used to subsidize environmental insurance \$458 has been leveraged in investment and cleanup of sites.

What Mass BRAC did was address the concerns with regard to the environmental liability issues by making sure that two AIG Environmental[®] insurance policies were available to the Mass BRAC program. These environmental insurance policies are Pollution Legal Liability and Cleanup Cost Cap insurance.

Pollution Legal Liability is an AIG Environmental[®] coverage for fixed facilities. It is designed to be tailored for the differing environmental liability concerns facing property owners and managers. Subject to underwriting and the specific terms and conditions of the insurance policy, PLL can cover legal liabilities associated with:

Cleanup Cost for unknown pre-existing Pollution Conditions both on and off site
Cleanup Cost for new Pollution Conditions both on and off site
Third Party Liability for Property Damage and Bodily Injury due to Pollution Conditions
Defense Cost associated with Claims for Clean-Up Costs, Property Damage or Bodily Injury due to Pollution Conditions
Third Party Business Interruption and Diminution-in-Value
Non Owned Disposal Site Liability
Transportation Incidents

These coverages go to the heart of what concerns many would-be Brownfield redevelopers. What if a Pollution Condition is found that no one knew was there? What if the Government requires more cleanup of a known Pollution Condition after providing a “No Further Action” letter? What if there is a toxic tort law suit? These questions can be addressed by Pollution Legal Liability insurance. PLL helps to bring a degree of certainty with regard to these issues to any Brownfield transaction.

Cleanup Cost Cap insurance is utilized with the actual cleanup of Brownfields and addresses one of the Brownfield developer’s greatest concerns – what if the cleanup of the site cost more than expected? Cleanup Cost Cap is designed to cover cost overruns that might occur during the cleanup of a Brownfield. The policy works by establishing an “attachment point” or the estimated cost of cleanup, or in insurance terms a Self Insured Retention. If the cleanup cost of the site due to greater contamination or governmental changes exceeds that “attachment point” those excess cost are covered, subject to the terms and conditions of the policy, up to the limits of the policy. CCC can be designed to cover excess cost incurred for both Known Contamination and/or Unknown Contamination that is discovered during implementation of the cleanup plan.

This coverage greatly assists developers as they plan their project. By using CCC, their covered Cleanup Costs are capped. The developer is able to better estimate the cost associated for the site cleanup when backed up by CCC.

The Commonwealth of Massachusetts listened to the Brownfield community and heard its concerns. Mass Business created a partnership with AIG Environmental[®] that has created a program to make Brownfields redevelopment happen. AIG Environmental[®] is extremely proud to have participated in this program since its inception, but we are just as proud of the results it has achieved for the Commonwealth. We were extremely pleased to watch last year as the winner of the US EPA Region 1 Phoenix Award at the National Brownfields Conference was a project in Dorchester that was a Mass BRAC participant and an AIG Environmental[®] insured. The Dorchester Bay Economic Development Corporation (DBEDC) turned the Project, a \$15 million redevelopment project of the former 4.7 acre site into a place for new jobs and hope for the community.

The site was home to industrial use for 80 years and then abandoned for ten years before the DBEDC bought the site in 1994 and planned its redevelopment. A new building was opened on the site in 2002 which serves as the headquarters for a Boston-based marketing firm which designs, prints and distributes marketing materials from its two-story facility. The marketing firm's new headquarters employs over 100 people, which includes some entry level positions. The firm offers job training for local residents in this lower income area of Dorchester to prepare them for some of these entry level positions.

Prior to redevelopment and reuse, contamination that was concentrated on a 1.1 acre portion of the site that contained a lagoon and a railroad spur that had to be removed. Both the lagoon and ground water in this portion of the site were contaminated with lead and silver, volatile organic compounds, oil and grease. The railroad spur also contained lead, polycyclic aromatic hydrocarbons (PAH) and total petroleum hydrocarbons (TPH).

The innovative use by states of environmental insurance began in Massachusetts, but does not stop there. The State of Wisconsin developed a program utilizing a PLL policy with AIG Environmental[®] that insures the State of Wisconsin, subject to the terms and conditions of the policy, against future cleanup costs. This program – known as Voluntary Party Liability Exemption (VPLE) – allows the state to give full releases of liability to prospective purchasers of Brownfield sites for known groundwater contamination at the site that is being cleaned up using natural attenuation. If that remedial approach fails, the State of Wisconsin can look to the policy to cover the cost of cleaning up that ground water up to the limits of the policy.

Here again, the state listened to the concerns of those wanting to develop Brownfields and designed a policy so that those concerns could be addressed and the cleanup and redevelopment of sites could move forward. And, Wisconsin did not stop there. Early this year it awarded to AIG Environmental[®] the contract for this program similar to Mass BRAC and we are currently in negotiations with the state on the program and hope to have it fully launched late this year. Again, another tool, another problem fixed.

The State of California also adopted legislation similar to Mass BRAC and again AIG Environmental[®] was pleased to be conditionally selected as the insurance carrier for that program. Unfortunately, budget issues and changes of administration, plus a complicated enacting statute, have prevented that program from being successfully launched at this time. However, AIG Environmental[®] is committed to seeing it come to fruition and serving the State of California.

The lessons learned by these states have not been lost on others. The State of New York passed a tax credit program that allows Brownfield developers who purchased environmental insurance to take a tax credit for the premium up to a limit of \$30,000. The Commonwealth of Pennsylvania has introduced legislation to establish an environmental insurance program there and the Governor of Delaware announced plans to have an environmental insurance program in that state by year end. Other states are actively studying the results and are examining ways to implement similar programs.

Fortunately, Congress had the foresight in the 2002 Brownfield law to allow EPA Brownfield grant receipts to use funds from those grants to purchase environmental insurance. Therefore, local and state governments, and qualified non-profits, can use EPA Brownfield funds to offset the cost of establishing state or local environmental insurance programs or using the grants for specific Brownfield transactions.

AIG Environmental® is extremely proud of our role in Brownfield transactions. We truly enjoy working with all levels of government to make Brownfields redevelopment a reality. One of our greatest joys was when the Atlantic Station project in Atlanta, GA was selected as the National Phoenix Award winner in 2004. AIG member companies are intimately involved in that project at numerous levels and take pride in our contribution to making that section of Atlanta come alive.

Again, environmental insurance is just one of the tools utilized in Brownfield redevelopment, but its use is perhaps one of the best leveraging tools available. State programs that have used this tool have proven very successful and we look forward to working with this Committee and Chairman to assist in developing legislation that will allow states to take advantage of similar programs.

Thank you and I will be happy to answer any questions you might have.